IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL (SUO MOTU) CONTEMPT PETITION NO.2 OF 2005
WITH
CRIMINAL APPLICATION NO.2267 OF 2005

High Court on its Own Motion ...Petitioner.
V/s.
Mrs.Agnes D'Souza and another ...Respondents.

Smt.P.H.Kantharia, A.P.P. for the Petitioner/State.
Shri K.K.V.Kurup for Respondent No.1 and for the Applicant in Criminal Application No.2267 of 2005.

CORAM: B.H.MARLAPALLE &
J.H.BHATIA, JJ.

RESERVED ON : 14th December, 2006.
PRONOUNCED ON: 20th December, 2006.

P.C.: (Per J.H.Bhatia, J.)

1. In S.C.Suit No.1139 of 1996, Mrs.Agnes D'Souza Vs. Andrew Quadros and Others pending before the City Civil Court, Bombay, the plaintiff who is alleged contemnor no.1 filed an application dated 26th February, 2002 before the Principal Judge of that Court for transfer of the case to another judge. In that application, the plaintiff made certain allegations against the Presiding Officer of that Court. Thereafter, on 15th March, 2002, alongwith copy of the said application, she also filed Miscellaneous Petition No.71 of 2002 before this Court for transfer of the said matter to some other judge. In that petition also, she

made certain allegations against the said Presiding Officer of the City Civil Court, Bombay.

2. On 16-10-2002, the petitioner/original plaintiff made a statement that cause of action to proceed with the application did not survive and, therefore, the learned counsel for the petitioner prayed for permission to withdraw this application. However, while disposing off that transfer application, the learned Single Judge by an order dated 16-10-2002, directed to issue show-cause notice to the counsel appearing for the petitioner, Shri K.K.V.Kurup, advocate, calling upon him to show cause as to why action for the contempt of the Court be not initiated against him. Accordingly, the show-cause notice was issued to the alleged contemnor nos.1 and 2, being the original petitioner and her counsel respectively. In view of that direction, Suo Motu Contempt Petition No.441 of 2002 was registered. It appears that for long time notice was not served and after service of notice, on 20th January, 2005, the learned Single Judge (B.H.Marlapalle, J.) observed that it amounted to criminal contempt and the matter be placed before the appropriate Bench dealing with criminal contempt petitions. Accordingly, the matter was placed before

the Division Bench. It appears that in view of the said order dated 20th January, 2005, Suo Motu Contempt Petition No.441 of 2002 was re-registered as Criminal Suo Motu Contempt Petition No.2 of 2005. Thereafter, on 3rd February, 2006, order was passed to issue notice of the contempt petition being listed for final hearing.

3. Respondent No.1-Original Petitioner submitted her reply with apology and the apology was accepted. The alleged contemnor no.2 who was her Counsel, filed his reply. He contends that the matter is barred by limitation.

4. In view of the provisions of Section 20 of the Contempt of Courts Act, no Court shall initiate any proceedings for contempt, either on its motion or otherwise, after the expiry of period of one year from the date on which contempt is alleged to have been committed. From the above mentioned facts, it is clear that alleged contempt was committed by filing transfer application before the Principal Judge, City Civil Court, Bombay on 26th February, 2002 and again on 15th March, 2002 when Miscellaneous Petition No.71 of 2002 was filed before this Court for transfer of the matter

to other judge of the City Civil Court. On 16-10-2002, transfer petition was disposed off. However, on that date, for the first time, the learned Single Judge noted that the allegations made in the transfer petition were contemptuous and, therefore, he directed to issue a notice to the contemnors to show cause as to why action for the contempt of the Court be not initiated against him. This was only notice before initiation of the proceedings.

5. It is now well settled that the Suo Motu Contempt proceedings should be initiated within a period of one year from the date on which contempt was alleged to have been committed. In the present case, though the Court had passed the order on 16-10-2002 in this respect but it was only a notice to show cause as to why contempt action be not initiated. It means that the Court still wanted to give an opportunity to the alleged contemnors to produce the material or documents which could be considered before finally taking a decision as to whether contempt action should or should not be initiated. As it appears that this Court issued notice for final hearing in this contempt matter on 3rd February, 2006, it may be said that it was on that date, for the first time that this Court actually decided to initiate the proceedings against the respondents for

contempt. Therefore, we are satisfied that the proceeding is barred by the limitation prescribed by Section 20 of the Contempt of Courts Act.

5. For the aforesaid reasons, contempt proceeding is hereby dropped and the notice stands discharged.

6. Criminal Application No.2267 of 2005 does not survive and stands disposed off accordingly.

(J.H.BHATIA,J.) (B.H.MARLAPALLE,J.)